IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 1169(S/S)2007

Rajeshwari Negi W/o Sri K.S. Negi,
R/o Mandakini Vihar, Sahastradhara Road,
Post Kandoli, District Dehradun. ---- Petitioner.

Vs.

1. Addl. District Education Officer (Basic), Dehradun.
2. Bharti Sawan W/o Sunil Thakur, (Assistant Teacher),
3. Anju Bala Bisht W/o Late Narendra Bisht,
   (Assistant Teacher),
   Both r/0 Junior High School, Kimari,
   Sahaspur, Dehradun ---- Respondents.

Sri Ravi Babulkar, learned counsel for the petitioner and
Sri H.M. Raturi, learned Standing Counsel for the State of Uttarakhand
None for respondent nos. 2 & 3.

Hon'ble M.M, Ghildiyal, J.

Heard Sri Ravi Babulkar, learned Counsel for the petitioner and Sri H.M. Raturi, learned Standing Counsel for the State of Uttarakhand. None for respondent nos. 2 & 3.

The petitioner has preferred the instant writ petition challenging the impugned transfer order dated 01.08.2007 (annexure no. 3 so far as it relates to the petitioner) passed by Addl. District Education Officer (Basic), Dehradun/respondent no. 1, by which, the petitioner who is working as Assistant Teacher in Junior High School, Kimari, Sahaspur, district Dehradun has been transferred to Junior High School, Khankandi, Block Kalsi, Dehradun on the ground that the teachers working at Junior High School, Kimari are above then the prescribed standard fixed by the Govt.

The petitioner has challenged the impugned transfer order on various grounds. Main ground of assailing the impugned order is that the petitioner had joined her duties at his present place of posting in the month of October 2004; that since the respondent nos. 2 & 3 were posted in the very Institution on attachment basis as also on the basis of interim order obtained by them as far back on 26.08.2004 but they have started drawing their salary from this Institution from April 2006 and May 2007 respectively whereas the petitioner is drawing her salary from this Institution since she joined here, thus the ratio of prescribed standard would be applicable upon the respondent nos. 2 & 3 and not upon the petitioner; lastly that the petitioner is not a surplus Teacher in the very Institution.

So far the assertions, which have been made by the petitioner in the instant petition is concerned, in absence of pleadings of other parties in rebuttal, no observation can be made at this stage. Although this Court is refraining from commenting on the merits of the case lest it may adversely affect the petitioner's case, but keeping in view the averment made on oath that the petitioner is posted in the present Institution against the vacant post and is also drawing salary from the Institution, this is an ideal case, where interim order can be granted.

Therefore, without entering in to the merits of the case, I direct the petitioner to move representation before Addl. District Education Officer (Basic), Dehradun/ respondent no. 1 raising all her grievances, within a period of ten days from today. In case, the petitioner complies with the orders of this Court, the respondent no. 1 is directed to take decision on the

representation of the petitioner in accordance with the transfer policy and pass appropriated order on the issues raised by the petitioner in her representation, within a period of three weeks from the date of production of a certified copy of this order alongwith the representation.

Till the representation is decided by respondent no. 1, the petitioner shall not be relieved from her present place of posting.

With these directions, the writ petition is finally disposed of. No order as to costs. All the pending applications stand disposed of.

(M.M. Ghildiyal, J.)

August 24, 2007:
NCM: